

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA,

05 CV 0092 (NG) (RLM)

Plaintiff,

- against -

ORDER

PATRICIA M. PURCELL,

Defendant.

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GERSHON, United States District Judge:

Plaintiff seeks an award of attorney's fees against defendant who defaulted on two student loans. The application was referred to the Honorable Roanne L. Mann, United States Magistrate Judge, who, on March 16, 2006, issued a report recommending that the amount sought, \$1205, is excessive. Judge Mann correctly rejected plaintiff's effort to justify the award sought on a lodestar calculation basis. Indeed, were that the only available basis for an attorney's fee award, this court would award no fees at all, because the plaintiff has failed to comply with the most basic principle of lodestar fees, the submission of contemporaneous time records. *See New York State Association for Retarded Children, Inc. v. Carey*, 711 F.2d 1136, 1148 (2d Cir. 1983).

Nonetheless, the amount sought, \$1205, constituting 20% of the sum of the defaulted loans, will be awarded. Plaintiff relies not only on a lodestar calculation but also on the "statutory and regulatory basis" set forth in *United States v. Vilus*, 2005 WL 2175893 (E.D.N.Y. Sept. 8, 2005). In that case, Judge Sifton of this court sets forth in detail his analysis of why such fees are proper under the applicable statute and regulations. The defendant having defaulted, and no opposition to

Judge Sifton's analysis having been presented, the court applies *Vilus* and awards attorney's fees of \$1205 to plaintiff.

SO ORDERED.

/S/

NINA GERSHON
United States District Judge

Dated: Brooklyn, New York
March 30, 2006